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Professions Licensed by the Behavioral Sciences Regulatory Board; Adult Care Home Licensure Act and Receiverships; Naturopathic Doctors; SB 15

[http://www.kslegresearch.org/KLRD-web/Publications/SummaryofLegislation/2019\\_summary\\_of\\_legislation.pdf](http://www.kslegresearch.org/KLRD-web/Publications/SummaryofLegislation/2019_summary_of_legislation.pdf)

Amendments to Adult Care Home Licensure Act and Receiverships The bill amends the Adult Care Home Licensure Act regarding the application for licensure, financial solvency, and receivership of adult care homes. The bill requires the application for a license to operate an adult care home to include evidence of access to sufficient working capital necessary to operate an adult care home and include a list of current or previously licensed facilities in Kansas or outside the state in which an applicant has or previously had any ownership interest in the operations or the real property of the facility. With regard to a receivership, the bill addresses restrictions on licensure; adds a venue for filing an application for receivership; modifies the powers and duties of a receiver; places a restriction on the application or renewal of a license for a licensee and applicant under a receivership; addresses the number of copies of an application for receivership to be sent to and posted at a facility; addresses the timing of hearings and continuances on an application for receivership; modifies the powers and duties of a receiver; and adds operators and any individuals or entities that appear on a license to operate an adult care home to the list of those who are required to repay the payments made by the Secretary for Aging and Disability Services (Secretary) and personnel costs and other expenses to establish a receivership and assist the receiver, and who are subject to a lien on non-exempt personal and real property until amounts owed are repaid. Definitions [Section 26] The bill defines “insolvent” to mean the adult care home, or any individual or entity that operates an adult care home or appears on the adult care home license, has stopped paying debts in the ordinary course of business or is unable to pay debts as they come due in the ordinary course of business. Kansas Legislative Research Department 50 2019 Summary of Legislation Health Professions Licensed by the Behavioral Sciences Regulatory Board; Adult Care Home Licensure Act and Receiverships; Naturopathic Doctors; SB 15 As it pertains to the denial, suspension, or revocation of a license to operate an adult care home, the bill amends the definition of “person” to eliminate the requirement that such individual have an indirect or direct ownership interest of 25 percent or more in an adult care home and instead requires the individual have only any indirect or direct ownership interest. Application for Licensure [Section 27] In addition to the affirmative evidence of the applicant’s ability to comply with reasonable standards and rules and regulations adopted under the provisions of the Adult Care Home Licensure Act, as required under continuing law, the bill requires an application for a license to operate an adult care home contain the following additional information, if applicable: • A detailed projected budget for the first 12 months of operation prepared according to generally accepted accounting principles and certified by the principal officer of the applicant, accompanied by evidence of access to sufficient working capital to operate the adult care home in accordance with the budget, in the form of cash on deposit, a line of credit, applicant’s equity,

or any combination of these; and • A list of each current or previously licensed facility in Kansas or any other state, territory, or country or the District of Columbia in which the applicant has or previously had any percentage of ownership in the operations or the real property of the facility.

Amendments to Receivership Statutes Restrictions on new license or reinstatement (Section 28). When the district court appoints a receiver, the bill prohibits the applicant or licensee under the receivership from being eligible to apply for a new or reinstated license for ten years from the date of termination of the receivership action.

Procedural changes. The bill makes the following procedural changes with regard to receiverships: • Adds Shawnee County District Court as another venue option for filing the application for receivership (Section 30); • Reduces from five to one the number of copies of the application for receivership the applicant is required to send to the adult care home and requires the adult care home to post only the one copy of the application in a conspicuous place within the adult care home (Section 31); • Requires an answer to the application for receivership to be filed by a party within five days after the service of process of such application (Section 32); • Specifies the time frame in which the application for receivership must be heard is no later than the seventh day following the filing of the answer or other responsive Kansas Legislative Research Department 51 2019 Summary of Legislation Health Professions Licensed by the Behavioral Sciences Regulatory Board; Adult Care Home Licensure Act and Receiverships; Naturopathic Doctors; SB 15 pleading, rather than the seventh day following the filing of the application (Section 33); • Extends the length of time for which the district court is allowed to grant a continuance for good cause from 10 days to not more than 14 days (Section 33); and • Removes the requirement the receiver apply for a license to operate an adult care home on forms provided by the licensing agency (Section 33).

Powers and duties of the receiver (Section 34). The bill reorganizes and relocates the statutory powers and duties of the receiver within KSA 39-959 and: • Adds the receiver is entitled to the immediate use of all proceeds of any accounts receivable to discharge the powers and duties of the receiver; • Adds the authority to terminate contracts as necessary to carry out the receiver's powers and duties; • Modifies the receiver's authority to enter into contracts necessary to carry out the receiver's powers and duties and to incur expenses for individual items for repairs, improvements, or supplies without having to procure competitive bids, by removing the requirement that the total amount of such individual item cannot exceed \$500; • Adds authorization for the receiver to repay the receiver's expenditures from moneys appropriated to the Kansas Department for Aging and Disability Services (KDADS) for receivership purposes set in statute, if incoming payments from the operation of the adult care home exceed the costs incurred by the receiver in the performance of the receiver's powers and duties; • Deletes the requirement the receiver honor all existing leases, mortgages, chattel mortgages, and security interests; and • Adds, if incoming payments from the operation of the adult care home exceed the costs incurred by the receiver in the performance of the receiver's powers and duties, the receiver may pay post-receivership quality care assessments, as established under state law.

Payment and liens (Sections 35 and 36). Continuing law allows the Secretary to authorize expenditures from moneys appropriated for receiverships if incoming payments from the operation of the adult care home are less than the cost incurred by the receiver in the performance of the receiver's functions or for the initial operating expenses of the receivership. Continuing law also requires KDADS to keep an itemized ledger showing costs of personnel

and other expenses in establishing the receivership and assisting the receiver and requires KDADS be paid for these costs. Kansas Legislative Research Department 52 2019 Summary of Legislation Health Claire and Lola's Law—Possession of Certain Cannabidiol Treatment Preparations, Actions and Proceedings Prohibited, Affirmative Defense; Grandfathering of Certain Podiatrists; SB 28 The bill adds “operator” to the list of parties who owe and must repay the payments made by the Secretary and the costs of personnel and other expenses described above and against whom a lien on all non-exempt personal and real property is required until the debt is repaid. The bill also clarifies the owner, operator, or licensee responsible for payment of such debt and subject to a lien includes any individuals or entities that appear on the license to operate the adult care home. Recovery of expenses and costs upon termination of receivership (Section 37). The bill removes the Secretary for Children and Families as an entity eligible to recover expenses and costs under a receivership, clarifying only KDADS is eligible to recover such expenses.